

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

EARNEST D. BEAMON, JR.,

Plaintiff,

-vs-

Case No. 15-CV-560

**WILLIAM POLLARD,
TONY MELI,
CAPTAIN O'DONOVAN, and
CO ROSENTHAL,**

Defendants.

DECISION AND ORDER

On May 8, 2015, the plaintiff, Earnest D. Beamon, filed a *pro se* complaint under 42 U.S.C. § 1983. He also filed a motion for leave to proceed *in forma pauperis*. The Court directed the plaintiff to pay an initial partial filing fee of \$15.81 on or before June 9, 2015. The plaintiff has now filed a motion asking for order to use release account funds to pay his initial partial filing fee.

The PLRA requires courts to collect filing fees from “prisoner’s accounts.” 28 U.S.C. § 1915(b). As stated in *Doty v. Doyle*, 182 F. Supp. 2d 750 (E.D. Wis. 2002):

the courts have found that when a prisoner’s general fund has insufficient funds to pay filing fees, both the . . . Wisconsin PLRA . . . and the . . . federal PLRA . . . authorize the courts to order

that the money in a prisoner's release be made available for that purpose. *Spence v. Cooke*, 222 Wis. 2d 530, 537 (Ct. App. 1998); *Spence v. McCaughtry*, 46 F. Supp. 2d 861 (E.D. Wis. 1999). (All the same, in deference to the Wisconsin public policy behind release accounts, judges of this district do not routinely look to prisoners' release accounts when they assess initial partial filing fees under the federal PLRA, *Smith v. Huibregtse*, 151 F. Supp. 2d 1040, 1042 (E.D. Wis. 2001), although they will do so upon request from the prisoner, as in *Spence v. McCaughtry*.) *Id.* at 751.

The plaintiff has sufficient funds in his release account to pay the initial partial filing fee for this case, and the Court respects the plaintiff's choice to use his release funds to pay his initial partial filing fee. The Court also will allow the plaintiff additional time to request the disbursement of funds from his release account.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT the plaintiff's motion for order to use release account funds for initial partial filing fee (ECF No. 7) is **GRANTED**.

IT IS FURTHER ORDERED that, upon the plaintiff's request, the warden at the correctional institution where the plaintiff is incarcerated shall withdraw a total of \$15.81 from the plaintiff's release account and forward that sum to the Clerk of this Court as the initial partial filing fee in this action. Such payment is to be made within 21 days of the date of

this order.

IT IS FURTHER ORDERED that a copy of this order be sent to the warden at Waupun Correctional Institution.

Dated at Milwaukee, Wisconsin, this 9th day of June, 2015.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge